

REMARKS

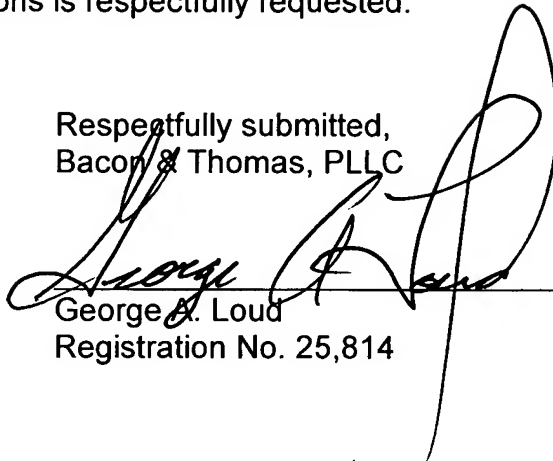
The rejection of claims 1-3 for obviousness over Kanegasaki et al WO 02/46356 in view of Kosaka et al, as set forth in paragraphs 3-5 is respectfully traversed. Even if Kanegasaki et al were to be modified by addition of the optical observation means of Kosaka et al, the result would not be the invention as defined by the amended claims here. As defined by amended claim 1 the light is transmitted through the objective lens and through the window onto the sample. On the contrary, the apparatus transmits the light from lamp 10, through the sample cell 24 and then through the object lens 28. Further, Kosaka et al neither teaches nor suggests an arrangement wherein the objective lens is mounted below the window.

The optical arrangement of Kosaka et al, as noted above, transmits light through the sample to the objective lens. Therefore, Kosaka et al require use of a sample cell which gives good light transmission. Toward this end, Kosaka et al employ "a flow cell comprising a transparent flat tube made of glass, plastics or the like," quoting from column 6, lines 16-18 of Kosaka et al. Accordingly, the optical arrangement of Kosaka et al does not lend itself to combination with Kanegasaki et al in that the combination would require the light source to be located above the cell observation chamber of Kanegasaki et al and, for this reason also, the combination would not give the invention as defined by the amended claims.

The obviousness-type double patenting rejection is respectfully traversed for the reason that the claims pending in US Application Serial No. 10/572,746 neither recite nor suggest any structural interrelationship between an optical observation means and a cell observation chamber, much less the specific structural arrangement claimed here.

Reconsideration of the rejections is respectfully requested.

Respectfully submitted,
Bacon & Thomas, PLLC

A large, stylized handwritten signature in black ink, appearing to read "George A. Loud", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

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